

REMARKS

In the Office Action, the Examiner objected to the drawings on the basis that the drawings include reference characters not mentioned in the description. The Examiner particularly pointed out reference characters 4A, 5, 7, 8, 10, 11 and 18.

Applicant notes that reference characters 4A, 5, 7 and 8 are found in Fig. 2, and denote section lines as explained in the Brief Description Of The Drawings. The same holds true for reference characters 10 and 11, which appear in Fig. 8. Reference characters 10 in Fig. 8 denote an enlarged area that is shown in Fig. 10, and reference characters 11 denote lines that provide a reference for the view of Fig. 11. Reference character 18 appears in Figs. 1 and 2. As noted on page 4, line 28, the round baler 16 includes a series of side-by-side belts 18 which define an internal bale-forming chamber. It can thus be appreciated that the reference character 18 does indeed appear in the specification.

For the above reasons, it is believed that the drawings are in full compliance with 37 CFR §1.84(p)(5), as well as all other drawing requirements, such that the objection to the drawings may be withdrawn.

Claims 1-4, 7, 9-14 and 18-23 were rejected under 35 USC §102(b) as being anticipated by Clostermeyer et al U.S. Patent 4,566,380. Claims 5 and 16 were rejected under 35 USC §103(a) as being unpatentable over Clostermeyer et al in view of Jennings U.S. Patent 4,458,587. Claim 8 was rejected under 35 USC §103(a) as being unpatentable over Clostermeyer et al in view of Olin U.S. Patent 5,263,410.

Claims 6, 15, 17 and 24 were objected to as being dependent upon a rejected base claim, with an indication that such claims would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims.

For the following reasons, it is believed that claims 1-21 as originally submitted patentably define over the primary Clostermeyer et al reference, as well as the remaining references of record, and are in allowable form.

Specifically, claim 1 recites a bale kicker assembly for a round baler, comprising an inner kicker section and an outer kicker section. The inner kicker section is defined as being movable between a lowered discharge position and a raised position. The

outer kicker section is defined as having an inner end pivotably mounted to the inner kicker section and an outer end spaced rearwardly from the inner end. Claim 1 further calls for a lifting and lower arrangement interconnected with the inner kicker section for moving the inner kicker section between its raised and lowered positions.

The Clostermeyer et al reference does not show or suggest the subject matter of claim 1. In Clostermeyer et al, an outer rod 16 is pivotably supported about a pin 17 to a machine-fixed carrier profile 18. Carrier profile 18 of Clostermeyer et al is a fixed-position member. In contrast to the Examiner's statement that Clostermeyer et al discloses the inner kicker section as being mounted for pivoting movement between raised and lowered positions (see page 3, lines 1 and 2 of the Office Action), there is nothing in Clostermeyer et al to suggest that carrier profile 18 is movable. Rather, Clostermeyer et al specifically discloses that carrier profile 18 is "machine-fixed", and provides the point of pivoting movement of rod 16.

The stationary nature of carrier profile 18 in Clostermeyer et al is important because switching rod 20 carries abutment 30, which moves back and forth when outer rod 16 is moved up and down. Abutment 30 interacts with microswitch 31, to selectively release a check valve 11 and to inform the operator that rear housing part 5 can be moved toward front housing part 3, to close baler 1. Thus, the interaction between microswitch 31 and abutment 30 controls whether the baler can be moved to the closed position from the open position, which necessarily requires stationary mounting of the components to which abutment 30 is mounted.

In short, Clostermeyer et al does not disclose a bale kicker having a movable inner section in combination with an outer section that is pivotably mounted to the inner section, as claimed. Further, there is nothing in Clostermeyer et al which shows or suggests a lifting and lowering arrangement for moving the inner kicker section between raised and lowered positions, as claimed. Accordingly, claim 1 is believed to patentably define over Clostermeyer et al. A review of the remaining references of record similarly fails to show or suggest the claimed subject matter, and accordingly claim 1 is believed allowable.

Claims 2-8 depend directly or indirectly from claim 1, and are thus also believed allowable for the above reasons as well as in view of the subject matter of each claim.

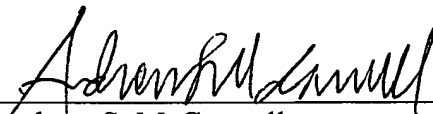
Independent claims 9 and 18 contain limitations similar to those of claim 1. For the same reasons noted with respect to claim 1, it is believed that claims 9 and 18 also patentably define over the Clostermeyer et al reference, and are thus allowable along with respective dependent claims 10-17 and 19-21.

Claims 22 and 23 have been cancelled, and claim 24 has been amended to independent form to incorporate the limitations of original claims 22 and 23. In view of the Examiner's indication of allowability, claim 24 is thus believed to be in allowable form.

Applicant's attorney has made every effort to place the application into condition for allowance with claims 1-21 and 24, and such action is earnestly requested.

The Examiner is encouraged to contact the undersigned by phone if questions remain after consideration of this response, or if such would otherwise facilitate prosecution.

Respectfully submitted,

By   
Andrew S. McConnell  
Reg. No. 32,272

Boyle, Fredrickson, Newholm,  
Stein & Gratz, S.C.  
250 East Wisconsin Avenue, Suite 1030  
Milwaukee, WI 53202  
(414) 225-9755  
Attorney Docket No.: 420.004